

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 13th day of November at 8:00 P.M., and there were

PRESENT:            MARK AQUINO, MEMBER  
                         JAMES PERRY, MEMBER  
                         LAWRENCE PIGNATARO, MEMBER  
                         RICHARD QUINN, MEMBER  
                         ARLIE SCHWAN, MEMBER  
                         ROBERT THILL, MEMBER  
                         JEFFREY LEHRBACH, CHAIRMAN

ABSENT:            NONE

ALSO PRESENT:    JOHANNA M. COLEMAN, TOWN CLERK  
                         JEFFREY SIMME, BUILDING INSPECTOR  
                         JOHN DUDZIAK, TOWN ATTORNEY

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

**PETITION OF CHARLES & SARA SICURELLA**

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the amended petition of Charles and Sara Sicurella, 1 Shadyside Lane, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a fence in a required open space area on premises owned by the petitioners at 1 Shadyside Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Shadyside Lane with an exterior side yard [considered a front yard equivalent] fronting on Tanglewood Drive. The petitioners propose to erect a six [6] foot high fence for a length of 32 feet and a four [4] foot high fence for a length of 109 feet within the required open space area of the exterior side yard fronting on Tanglewood Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioners, therefore, request a three [3] foot variance for a length of thirty two feet and a one [1] foot variance for a length of 109 feet.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicants with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioners of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Sara Sicurella, petitioner	Proponent
Larry Korzeniewski	Opponent
Anthony Kloc	Opponent

**IN THE MATTER OF THE PETITION OF CHARLES & SARA SICURELLA**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. THILL  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Charles and Sara Sicurella and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicants are the present owners of the premises in question.

**WHEREAS**, the property for which the applicants are petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following condition which in the opinion of this board is an appropriate condition to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- The fence within the 35 foot set back area shall be a four foot black chain link fence, always to be a fully see-through black fence that follows the pattern of option number two, depicting angling at the northwest corner and the southwest corner of subject fence as portrayed in the amended application of the petitioner dated October 23, 2008. Exception: at a point eight feet from where the fence connects on the west side of the garage; at this point it may convert to a solid four foot fence, with a two foot panel, a four foot gate and a two foot panel; the top one foot shall be of a decorative picket style. This is the south section of the fence parallel to Shadyside Lane; this "Exception Area" starts 28 feet from the west property line. The petitioners have the option to construct a black see-through chain link fence at the "Exception Area."

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

November 13, 2008

**PETITION OF MICHAEL BAERWALT:**

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Michael Baerwalt, 39 Polish Place, Buffalo, New York 14210 for two [2] variances for the purpose of constructing a detached garage on premises owned by the petitioner which is located at 5180 William Street, Lancaster, New York 14086, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is one thousand eight [1,008] square feet.

Chapter 50, Zoning, Section 10.D.(4) of the Code of the Town of Lancaster limits the area of accessory structures to seven hundred fifty [750] square feet. The petitioner, therefore, requests a two hundred fifty eight [258] square foot variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster. The height of the proposed accessory structure is twenty four [24] feet.

Chapter 50, Zoning, Section 10.D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests an eight [8] foot height variance.

**The Clerk presented and entered into evidence the following items:**

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

**PERSONS ADDRESSING THE BOARD**

Michael Baerwalt, petitioner

Proponent

**IN THE MATTER OF THE PETITION OF MICHAEL BAERWALT**

THE FOLLOWING RESOLUTION WAS OFFERED  
BY MR. LEHRBACH, WHO MOVED ITS  
ADOPTION, SECONDED BY MR. PERRY  
TO WIT:

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Michael Baerwalt and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November 2008, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

**WHEREAS**, the applicant is the present owner of the premises in question.

**WHEREAS**, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

**WHEREAS**, the Erie County Department of Environment and Planning has received a full copy of proposed zoning action and has made no recommendation.

**WHEREAS**, the Erie County Department of Environment and Planning commented on the proposed zoning action as follows:

"No recommendation; proposed action has been received and determined to be of local concern."

**WHEREAS**, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief could be substantial, however, the size of the lot mitigates the requested variance.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT**

**RESOLVED** that based upon these findings, the relief sought be and is hereby **GRANTED**-subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the height of the structure shall not exceed twenty-one [21] feet.
- That the roofing shingles shall be either black or grey and the siding shall be of an earth tone color.
- That no commercial enterprise, other than those permitted by Chapter 50 of the Code of the Town of Lancaster, be conducted on the premises.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR. AQUINO	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. QUINN	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. LEHRBACH	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

November 13, 2008

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 9:34 P.M.

Signed \_\_\_\_\_  
Johanna M. Coleman, Town Clerk and  
Clerk, Zoning Board of Appeals  
Dated: November 13, 2008